

SECOND REGULAR SESSION

# SENATE BILL NO. 1042

94TH GENERAL ASSEMBLY

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INTRODUCED BY SENATORS McKENNA, CALLAHAN, GREEN, ENGLER AND BARNITZ.

Read 1st time January 29, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4749S.011

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## AN ACT

To repeal sections 169.070 and 169.670, RSMo, and to enact in lieu thereof two new sections relating to teacher and school employee retirement systems.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 169.070 and 169.670, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 169.070 and 169.670, to  
3 read as follows:

169.070. 1. The retirement allowance of a member whose age at  
2 retirement is sixty years or more and whose creditable service is five years or  
3 more, or whose sum of age and creditable service equals eighty years or more, or  
4 who has attained age fifty-five and whose creditable service is twenty-five years  
5 or more or whose creditable service is thirty years or more regardless of age, may  
6 be the sum of the following items, not to exceed one hundred percent of the  
7 member's final average salary:

8 (1) Two and five-tenths percent of the member's final average salary for  
9 each year of membership service;

10 (2) Six-tenths of the amount payable for a year of membership service for  
11 each year of prior service not exceeding thirty years.

12 In lieu of the retirement allowance otherwise provided in subdivisions (1) and (2)  
13 of this subsection, a member may elect to receive a retirement allowance of:

14 (3) Between July 1, 1998, and July 1, 2013, two and four-tenths percent  
15 of the member's final average salary for each year of membership service, if the  
16 member's creditable service is twenty-nine years or more but less than thirty  
17 years, and the member has not attained age fifty-five;

18 (4) Between July 1, 1998, and July 1, 2013, two and  
19 thirty-five-hundredths percent of the member's final average salary for each year

20 of membership service, if the member's creditable service is twenty-eight years  
21 or more but less than twenty-nine years, and the member has not attained age  
22 fifty-five;

23 (5) Between July 1, 1998, and July 1, 2013, two and three-tenths percent  
24 of the member's final average salary for each year of membership service, if the  
25 member's creditable service is twenty-seven years or more but less than  
26 twenty-eight years, and the member has not attained age fifty-five;

27 (6) Between July 1, 1998, and July 1, 2013, two and  
28 twenty-five-hundredths percent of the member's final average salary for each year  
29 of membership service, if the member's creditable service is twenty-six years or  
30 more but less than twenty-seven years, and the member has not attained age  
31 fifty-five;

32 (7) Between July 1, 1998, and July 1, 2013, two and two-tenths percent  
33 of the member's final average salary for each year of membership service, if the  
34 member's creditable service is twenty-five years or more but less than twenty-six  
35 years, and the member has not attained age fifty-five;

36 (8) Between July 1, 2001, and July 1, 2013, two and fifty-five hundredths  
37 percent of the member's final average salary for each year of membership service,  
38 if the member's creditable service is thirty-one years or more regardless of age.

39 2. In lieu of the retirement allowance provided in subsection 1 of this  
40 section, a member whose age is sixty years or more on September 28, 1975, may  
41 elect to have the member's retirement allowance calculated as a sum of the  
42 following items:

43 (1) Sixty cents plus one and five-tenths percent of the member's final  
44 average salary for each year of membership service;

45 (2) Six-tenths of the amount payable for a year of membership service for  
46 each year of prior service not exceeding thirty years;

47 (3) Three-fourths of one percent of the sum of subdivisions (1) and (2) of  
48 this subsection for each month of attained age in excess of sixty years but not in  
49 excess of age sixty-five.

50 3. (1) In lieu of the retirement allowance provided either in subsection 1  
51 or 2 of this section, collectively called "option 1", a member whose creditable  
52 service is twenty-five years or more or who has attained the age of fifty-five with  
53 five or more years of creditable service may elect in the member's application for  
54 retirement to receive the actuarial equivalent of the member's retirement  
55 allowance in reduced monthly payments for life during retirement with the



92 contributions, the difference shall be paid to the beneficiary in a lump sum;

93 OR

94 Option 6. Upon the death of the member prior to the member having  
95 received sixty monthly payments of the member's reduced allowance, the  
96 remainder of the sixty monthly payments of the reduced allowance shall be paid  
97 to such beneficiary as the member shall have nominated in the member's election  
98 of the option or in a subsequent nomination. If there is no beneficiary so  
99 nominated who survives the member for the remainder of the sixty monthly  
100 payments, the total of the remainder of such sixty monthly payments shall be  
101 paid to the estate of the last person to receive a monthly allowance. If the total  
102 of the sixty payments paid to the retired individual and the beneficiary of the  
103 retired individual is less than the total of the member's accumulated  
104 contributions, the difference shall be paid to the beneficiary in a lump sum.

105 (2) The election of an option may be made only in the application for  
106 retirement and such application must be filed prior to the date on which the  
107 retirement of the member is to be effective. If either the member or the person  
108 nominated to receive the survivorship payments dies before the effective date of  
109 retirement, the option shall not be effective, provided that:

110 (a) If the member or a person retired on disability retirement dies after  
111 acquiring twenty-five or more years of creditable service or after attaining the age  
112 of fifty-five years and acquiring five or more years of creditable service and before  
113 retirement, except retirement with disability benefits, and the person named by  
114 the member as the member's beneficiary has an insurable interest in the life of  
115 the deceased member, the designated beneficiary may elect to receive either  
116 survivorship benefits under option 2 or a payment of the accumulated  
117 contributions of the member. If survivorship benefits under option 2 are elected  
118 and the member at the time of death would have been eligible to receive an  
119 actuarial equivalent of the member's retirement allowance, the designated  
120 beneficiary may further elect to defer the option 2 payments until the date the  
121 member would have been eligible to receive the retirement allowance provided in  
122 subsection 1 or 2 of this section;

123 (b) If the member or a person retired on disability retirement dies before  
124 attaining age fifty-five but after acquiring five but fewer than twenty-five years  
125 of creditable service, and the person named as the member's beneficiary has an  
126 insurable interest in the life of the deceased member, the designated beneficiary  
127 may elect to receive either a payment of the member's accumulated contributions,

128 or survivorship benefits under option 2 to begin on the date the member would  
129 first have been eligible to receive an actuarial equivalent of the member's  
130 retirement allowance, or to begin on the date the member would first have been  
131 eligible to receive the retirement allowance provided in subsection 1 or 2 of this  
132 section.

133         4. If the total of the retirement or disability allowance paid to an  
134 individual before the death of the individual is less than the accumulated  
135 contributions at the time of retirement, the difference shall be paid to the  
136 beneficiary of the individual, or to the (1) surviving spouse, (2) surviving children  
137 in equal shares, (3) surviving parents in equal shares, or (4) estate of the  
138 individual in that order of precedence. If an optional benefit as provided in  
139 option 2, 3 or 4 in subsection 3 of this section had been elected, and the  
140 beneficiary dies after receiving the optional benefit, and if the total retirement  
141 allowance paid to the retired individual and the beneficiary of the retired  
142 individual is less than the total of the contributions, the difference shall be paid  
143 to the (1) surviving spouse, (2) surviving children in equal shares, (3) surviving  
144 parents in equal shares, or (4) estate of the beneficiary, in that order of  
145 precedence, unless the retired individual designates a different recipient with the  
146 board at or after retirement.

147         5. If a member dies before receiving a retirement allowance, the member's  
148 accumulated contributions at the time of the death of the member shall be paid  
149 to the beneficiary of the member or, if there is no beneficiary, to the (1) surviving  
150 spouse, (2) surviving children in equal shares, (3) surviving parents in equal  
151 shares, or (4) to the estate of the member in that order of precedence; except that,  
152 no such payment shall be made if the beneficiary elects option 2 in subsection 3  
153 of this section, unless the beneficiary dies before having received benefits  
154 pursuant to that subsection equal to the accumulated contributions of the  
155 member, in which case the amount of accumulated contributions in excess of the  
156 total benefits paid pursuant to that subsection shall be paid to the (1) surviving  
157 spouse, (2) surviving children in equal shares, (3) surviving parents in equal  
158 shares, or (4) estate of the beneficiary, in that order of precedence.

159         6. If a member ceases to be a public school employee as herein defined  
160 and certifies to the board of trustees that such cessation is permanent, or if the  
161 membership of the person is otherwise terminated, the member shall be paid the  
162 member's accumulated contributions with interest.

163         7. Notwithstanding any provisions of sections 169.010 to 169.141 to the

164 contrary, if a member ceases to be a public school employee after acquiring five  
165 or more years of membership service in Missouri, the member may at the option  
166 of the member leave the member's contributions with the retirement system and  
167 claim a retirement allowance any time after reaching the minimum age for  
168 voluntary retirement. When the member's claim is presented to the board, the  
169 member shall be granted an allowance as provided in sections 169.010 to 169.141  
170 on the basis of the member's age, years of service, and the provisions of the law  
171 in effect at the time the member requests the member's retirement to become  
172 effective.

173 8. The retirement allowance of a member retired because of disability  
174 shall be nine-tenths of the allowance to which the member's creditable service  
175 would entitle the member if the member's age were sixty, or fifty percent of  
176 one-twelfth of the annual salary rate used in determining the member's  
177 contributions during the last school year for which the member received a year  
178 of creditable service immediately prior to the member's disability, whichever is  
179 greater, except that no such allowance shall exceed the retirement allowance to  
180 which the member would have been entitled upon retirement at age sixty if the  
181 member had continued to teach from the date of disability until age sixty at the  
182 same salary rate.

183 9. Notwithstanding any provisions of sections 169.010 to 169.141 to the  
184 contrary, from October 13, 1961, the contribution rate pursuant to sections  
185 169.010 to 169.141 shall be multiplied by the factor of two-thirds for any member  
186 of the system for whom federal Old Age and Survivors Insurance tax is paid from  
187 state or local tax funds on account of the member's employment entitling the  
188 person to membership in the system. The monetary benefits for a member who  
189 elected not to exercise an option to pay into the system a retroactive contribution  
190 of four percent on that part of the member's annual salary rate which was in  
191 excess of four thousand eight hundred dollars but not in excess of eight thousand  
192 four hundred dollars for each year of employment in a position covered by this  
193 system between July 1, 1957, and July 1, 1961, as provided in subsection 10 of  
194 this section as it appears in RSMo, 1969, shall be the sum of:

195 (1) For years of service prior to July 1, 1946, six-tenths of the full amount  
196 payable for years of membership service;

197 (2) For years of membership service after July 1, 1946, in which the full  
198 contribution rate was paid, full benefits under the formula in effect at the time  
199 of the member's retirement;

200 (3) For years of membership service after July 1, 1957, and prior to July  
201 1, 1961, the benefits provided in this section as it appears in RSMo, 1959; except  
202 that if the member has at least thirty years of creditable service at retirement the  
203 member shall receive the benefit payable pursuant to that section as though the  
204 member's age were sixty-five at retirement;

205 (4) For years of membership service after July 1, 1961, in which the  
206 two-thirds contribution rate was paid, two-thirds of the benefits under the  
207 formula in effect at the time of the member's retirement.

208 10. The monetary benefits for each other member for whom federal Old  
209 Age and Survivors Insurance tax is or was paid at any time from state or local  
210 funds on account of the member's employment entitling the member to  
211 membership in the system shall be the sum of:

212 (1) For years of service prior to July 1, 1946, six-tenths of the full amount  
213 payable for years of membership service;

214 (2) For years of membership service after July 1, 1946, in which the full  
215 contribution rate was paid, full benefits under the formula in effect at the time  
216 of the member's retirement;

217 (3) For years of membership service after July 1, 1957, in which the  
218 two-thirds contribution rate was paid, two-thirds of the benefits under the  
219 formula in effect at the time of the member's retirement.

220 11. Any retired member of the system who was retired prior to September  
221 1, 1972, or beneficiary receiving payments under option 1 or option 2 of  
222 subsection 3 of this section, as such option existed prior to September 1, 1972,  
223 will be eligible to receive an increase in the retirement allowance of the member  
224 of two percent for each year, or major fraction of more than one-half of a year,  
225 which the retired member has been retired prior to July 1, 1975. This increased  
226 amount shall be payable commencing with January, 1976, and shall thereafter  
227 be referred to as the member's retirement allowance. The increase provided for  
228 in this subsection shall not affect the retired member's eligibility for  
229 compensation provided for in section 169.580 or 169.585, nor shall the amount  
230 being paid pursuant to these sections be reduced because of any increases  
231 provided for in this section.

232 12. If the board of trustees determines that the cost of living, as measured  
233 by generally accepted standards, increases two percent or more in the preceding  
234 fiscal year, the board shall increase the retirement allowances which the retired  
235 members or beneficiaries are receiving by two percent of the amount being

236 received by the retired member or the beneficiary at the time the annual increase  
237 is granted by the board with the provision that the increases provided for in this  
238 subsection shall not become effective until the fourth January first following the  
239 member's retirement or January 1, 1977, whichever later occurs, or in the case  
240 of any member retiring on or after July 1, 2000, the increase provided for in this  
241 subsection shall not become effective until the third January first following the  
242 member's retirement, or in the case of any member retiring on or after July 1,  
243 2001, the increase provided for in this subsection shall not become effective until  
244 the second January first following the member's retirement. Commencing with  
245 January 1, 1992, if the board of trustees determines that the cost of living has  
246 increased five percent or more in the preceding fiscal year, the board shall  
247 increase the retirement allowances by five percent. The total of the increases  
248 granted to a retired member or the beneficiary after December 31, 1976, may not  
249 exceed eighty percent of the retirement allowance established at retirement or as  
250 previously adjusted by other subsections. If the cost of living increases less than  
251 five percent, the board of trustees may determine the percentage of increase to  
252 be made in retirement allowances, but at no time can the increase exceed five  
253 percent per year. If the cost of living decreases in a fiscal year, there will be no  
254 increase in allowances for retired members on the following January first.

255         13. The board of trustees may reduce the amounts which have been  
256 granted as increases to a member pursuant to subsection 12 of this section if the  
257 cost of living, as determined by the board and as measured by generally accepted  
258 standards, is less than the cost of living was at the time of the first increase  
259 granted to the member; except that, the reductions shall not exceed the amount  
260 of increases which have been made to the member's allowance after December 31,  
261 1976.

262         14. Any application for retirement shall include a sworn statement by the  
263 member certifying that the spouse of the member at the time the application was  
264 completed was aware of the application and the plan of retirement elected in the  
265 application.

266         15. Notwithstanding any other provision of law, any person retired prior  
267 to September 28, 1983, who is receiving a reduced retirement allowance under  
268 option 1 or option 2 of subsection 3 of this section, as such option existed prior to  
269 September 28, 1983, and whose beneficiary nominated to receive continued  
270 retirement allowance payments under the elected option dies or has died, shall  
271 upon application to the board of trustees have his or her retirement allowance

272 increased to the amount he or she would have been receiving had the option not  
273 been elected, actuarially adjusted to recognize any excessive benefits which would  
274 have been paid to him or her up to the time of application.

275         16. Benefits paid pursuant to the provisions of the public school  
276 retirement system of Missouri shall not exceed the limitations of Section 415 of  
277 Title 26 of the United States Code except as provided pursuant to this  
278 subsection. Notwithstanding any other law to the contrary, the board of trustees  
279 may establish a benefit plan pursuant to Section 415(m) of Title 26 of the United  
280 States Code. Such plan shall be created solely for the purpose described in  
281 Section 415(m)(3)(A) of Title 26 of the United States Code. The board of trustees  
282 may promulgate regulations necessary to implement the provisions of this  
283 subsection and to create and administer such benefit plan.

284         17. Notwithstanding any other provision of law to the contrary, any  
285 person retired before, on, or after May 26, 1994, shall be made, constituted,  
286 appointed and employed by the board as a special consultant on the matters of  
287 education, retirement and aging, and upon request shall give written or oral  
288 opinions to the board in response to such requests. As compensation for such  
289 duties the person shall receive an amount based on the person's years of service  
290 so that the total amount received pursuant to sections 169.010 to 169.141 shall  
291 be at least the minimum amounts specified in subdivisions (1) to (4) of this  
292 subsection. In determining the minimum amount to be received, the amounts in  
293 subdivisions (3) and (4) of this subsection shall be adjusted in accordance with the  
294 actuarial adjustment, if any, that was applied to the person's retirement  
295 allowance. In determining the minimum amount to be received, beginning  
296 September 1, 1996, the amounts in subdivisions (1) and (2) of this subsection  
297 shall be adjusted in accordance with the actuarial adjustment, if any, that was  
298 applied to the person's retirement allowance due to election of an optional form  
299 of retirement having a continued monthly payment after the person's  
300 death. Notwithstanding any other provision of law to the contrary, no person  
301 retired before, on, or after May 26, 1994, and no beneficiary of such a person,  
302 shall receive a retirement benefit pursuant to sections 169.010 to 169.141 based  
303 on the person's years of service less than the following amounts:

- 304         (1) Thirty or more years of service, one thousand two hundred dollars;  
305         (2) At least twenty-five years but less than thirty years, one thousand  
306 dollars;  
307         (3) At least twenty years but less than twenty-five years, eight hundred

308 dollars;

309 (4) At least fifteen years but less than twenty years, six hundred dollars.

310 18. Notwithstanding any other provisions of law to the contrary, any  
311 person retired prior to May 26, 1994, and any designated beneficiary of such a  
312 retired member who was deceased prior to July 1, 1999, shall be made,  
313 constituted, appointed and employed by the board as a special consultant on the  
314 matters of education, retirement or aging and upon request shall give written or  
315 oral opinions to the board in response to such requests. Beginning September 1,  
316 1996, as compensation for such service, the member shall have added, pursuant  
317 to this subsection, to the member's monthly annuity as provided by this section  
318 a dollar amount equal to the lesser of sixty dollars or the product of two dollars  
319 multiplied by the member's number of years of creditable service. Beginning  
320 September 1, 1999, the designated beneficiary of the deceased member shall as  
321 compensation for such service have added, pursuant to this subsection, to the  
322 monthly annuity as provided by this section a dollar amount equal to the lesser  
323 of sixty dollars or the product of two dollars multiplied by the member's number  
324 of years of creditable service. The total compensation provided by this section  
325 including the compensation provided by this subsection shall be used in  
326 calculating any future cost-of-living adjustments provided by subsection 12 of this  
327 section.

328 19. Any member who has retired prior to July 1, 1998, and the designated  
329 beneficiary of a deceased retired member shall be made, constituted, appointed  
330 and employed by the board as a special consultant on the matters of education,  
331 retirement and aging, and upon request shall give written or oral opinions to the  
332 board in response to such requests. As compensation for such duties the person  
333 shall receive a payment equivalent to eight and seven-tenths percent of the  
334 previous month's benefit, which shall be added to the member's or beneficiary's  
335 monthly annuity and which shall not be subject to the provisions of subsections  
336 12 and 13 of this section for the purposes of the limit on the total amount of  
337 increases which may be received.

338 20. Any member who has retired shall be made, constituted, appointed  
339 and employed by the board as a special consultant on the matters of education,  
340 retirement and aging, and upon request shall give written or oral opinions to the  
341 board in response to such request. As compensation for such duties, the  
342 beneficiary of the retired member, or, if there is no beneficiary, the (1) surviving  
343 spouse, (2) surviving children in equal shares, (3) surviving parents in equal

344 shares, or (4) estate of the retired member, in that order of precedence, shall  
345 receive as a part of compensation for these duties a death benefit of five thousand  
346 dollars.

347         21. Any member who has retired prior to July 1, 1999, and the designated  
348 beneficiary of a retired member who was deceased prior to July 1, 1999, shall be  
349 made, constituted, appointed and employed by the board as a special consultant  
350 on the matters of education, retirement and aging, and upon request shall give  
351 written or oral opinions to the board in response to such requests. As  
352 compensation for such duties, the person shall have added, pursuant to this  
353 subsection, to the monthly annuity as provided by this section a dollar amount  
354 equal to five dollars times the member's number of years of creditable service.

355         22. Any member who has retired prior to July 1, 2000, and the designated  
356 beneficiary of a deceased retired member shall be made, constituted, appointed  
357 and employed by the board as a special consultant on the matters of education,  
358 retirement and aging, and upon request shall give written or oral opinions to the  
359 board in response to such requests. As compensation for such duties, the person  
360 shall receive a payment equivalent to three and five-tenths percent of the  
361 previous month's benefit, which shall be added to the member or beneficiary's  
362 monthly annuity and which shall not be subject to the provisions of subsections  
363 12 and 13 of this section for the purposes of the limit on the total amount of  
364 increases which may be received.

365         23. Any member who has retired prior to July 1, 2001, and the designated  
366 beneficiary of a deceased retired member shall be made, constituted, appointed  
367 and employed by the board as a special consultant on the matters of education,  
368 retirement and aging, and upon request shall give written or oral opinions to the  
369 board in response to such requests. As compensation for such duties, the person  
370 shall receive a dollar amount equal to three dollars times the member's number  
371 of years of creditable service, which shall be added to the member's or  
372 beneficiary's monthly annuity and which shall not be subject to the provisions of  
373 subsections 12 and 13 of this section for the purposes of the limit on the total  
374 amount of increases which may be received.

375         **24. Notwithstanding the provisions of subsection 6 of section**  
376 **169.030 to the contrary, any member who has retired, attained the age**  
377 **of seventy-five and above, and received cost-of-living increases totaling**  
378 **eighty percent as provided in subsection 12 of this section prior to**  
379 **January 1, 2009, shall be made, constituted, and employed by the board**

380 as a special consultant on the matters of education, retirement, and  
381 aging, and upon request shall give written or oral opinions to the board  
382 in response to such requests. As compensation for such duties,  
383 beginning January 1, 2009, and through January 1, 2014, the member  
384 shall receive an amount equal to five dollars per month multiplied by  
385 years of service which shall be added to the member's monthly annuity.

169.670. 1. The retirement allowance of a member whose age at  
2 retirement is sixty years or more and whose creditable service is five years or  
3 more, or whose sum of age and creditable service equals eighty years or more, or  
4 whose creditable service is thirty years or more regardless of age, shall be the  
5 sum of the following items:

6 (1) For each year of membership service, one and sixty-one hundredths  
7 percent of the member's final average salary;

8 (2) Six-tenths of the amount payable for a year of membership service for  
9 each year of prior service;

10 (3) Eighty-five one-hundredths of one percent of any amount by which the  
11 member's average compensation for services rendered prior to July 1, 1973,  
12 exceeds the average monthly compensation on which federal Social Security taxes  
13 were paid during the period over which such average compensation was  
14 computed, for each year of membership service credit for services rendered prior  
15 to July 1, 1973, plus six-tenths of the amount payable for a year of membership  
16 service for each year of prior service credit;

17 (4) In lieu of the retirement allowance otherwise provided by subdivisions  
18 (1) to (3) of this subsection, between July 1, 2001, and July 1, 2013, a member  
19 may elect to receive a retirement allowance of:

20 (a) One and fifty-nine hundredths percent of the member's final average  
21 salary for each year of membership service, if the member's creditable service is  
22 twenty-nine years or more but less than thirty years and the member has not  
23 attained the age of fifty-five;

24 (b) One and fifty-seven hundredths percent of the member's final average  
25 salary for each year of membership service, if the member's creditable service is  
26 twenty-eight years or more but less than twenty-nine years, and the member has  
27 not attained the age of fifty-five;

28 (c) One and fifty-five hundredths percent of the member's final average  
29 salary for each year of membership service, if the member's creditable service is  
30 twenty-seven years or more but less than twenty-eight years and the member has

31 not attained the age of fifty-five;

32 (d) One and fifty-three hundredths percent of the member's final average  
33 salary for each year of membership service, if the member's creditable service is  
34 twenty-six years or more but less than twenty-seven years and the member has  
35 not attained the age of fifty-five;

36 (e) One and fifty-one hundredths percent of the member's final average  
37 salary for each year of membership service, if the member's creditable service is  
38 twenty-five years or more but less than twenty-six years and the member has not  
39 attained the age of fifty-five; and

40 (5) In addition to the retirement allowance provided in subdivisions (1)  
41 to (3) of this subsection, a member retiring on or after July 1, 2001, whose  
42 creditable service is thirty years or more or whose sum of age and creditable  
43 service is eighty years or more, shall receive a temporary retirement allowance  
44 equivalent to eight-tenths of one percent of the member's final average salary  
45 multiplied by the member's years of service until such time as the member  
46 reaches the minimum age for Social Security retirement benefits.

47 2. If the board of trustees determines that the cost of living, as measured  
48 by generally accepted standards, increases five percent or more in the preceding  
49 fiscal year, the board shall increase the retirement allowances which the retired  
50 members or beneficiaries are receiving by five percent of the amount being  
51 received by the retired member or the beneficiary at the time the annual increase  
52 is granted by the board; provided that, the increase provided in this subsection  
53 shall not become effective until the fourth January first following a member's  
54 retirement or January 1, 1982, whichever occurs later, and the total of the  
55 increases granted to a retired member or the beneficiary after December 31, 1981,  
56 may not exceed eighty percent of the retirement allowance established at  
57 retirement or as previously adjusted by other provisions of law. If the cost of  
58 living increases less than five percent, the board of trustees may determine the  
59 percentage of increase to be made in retirement allowances, but at no time can  
60 the increase exceed five percent per year. If the cost of living decreases in a fiscal  
61 year, there will be no increase in allowances for retired members on the following  
62 January first.

63 3. The board of trustees may reduce the amounts which have been granted  
64 as increases to a member pursuant to subsection 2 of this section if the cost of  
65 living, as determined by the board and as measured by generally accepted  
66 standards, is less than the cost of living was at the time of the first increase

67 granted to the member; provided that, the reductions shall not exceed the amount  
68 of increases which have been made to the member's allowance after December 31,  
69 1981.

70 4. (1) In lieu of the retirement allowance provided in subsection 1 of this  
71 section, called "option 1", a member whose creditable service is twenty-five years  
72 or more or who has attained age fifty-five with five or more years of creditable  
73 service may elect, in the application for retirement, to receive the actuarial  
74 equivalent of the member's retirement allowance in reduced monthly payments  
75 for life during retirement with the provision that:

76 Option 2. Upon the member's death, the reduced retirement allowance  
77 shall be continued throughout the life of and paid to such person as has an  
78 insurable interest in the life of the member as the member shall have nominated  
79 in the member's election of the option, and provided further that if the person so  
80 nominated dies before the retired member, the retirement allowance will be  
81 increased to the amount the retired member would be receiving had the member  
82 elected option 1;

83 OR

84 Option 3. Upon the death of the member three-fourths of the reduced  
85 retirement allowance shall be continued throughout the life of and paid to such  
86 person as has an insurable interest in the life of the member and as the member  
87 shall have nominated in an election of the option, and provided further that if the  
88 person so nominated dies before the retired member, the retirement allowance  
89 will be increased to the amount the retired member would be receiving had the  
90 member elected option 1;

91 OR

92 Option 4. Upon the death of the member one-half of the reduced  
93 retirement allowance shall be continued throughout the life of, and paid to, such  
94 person as has an insurable interest in the life of the member and as the member  
95 shall have nominated in an election of the option, and provided further that if the  
96 person so nominated dies before the retired member, the retirement allowance  
97 shall be increased to the amount the retired member would be receiving had the  
98 member elected option 1;

99 OR

100 Option 5. Upon the death of the member prior to the member having  
101 received one hundred twenty monthly payments of the member's reduced  
102 allowance, the remainder of the one hundred twenty monthly payments of the

103 reduced allowance shall be paid to such beneficiary as the member shall have  
104 nominated in the member's election of the option or in a subsequent nomination.  
105 If there is no beneficiary so nominated who survives the member for the  
106 remainder of the one hundred twenty monthly payments, the reserve for the  
107 remainder of such one hundred twenty monthly payments shall be paid to the  
108 estate of the last person to receive a monthly allowance. If the total of the one  
109 hundred twenty payments paid to the retired individual and the beneficiary of the  
110 retired individual is less than the total of the member's accumulated  
111 contributions, the difference shall be paid to the beneficiary in a lump sum;

112

OR

113 Option 6. Upon the death of the member prior to the member having  
114 received sixty monthly payments of the member's reduced allowance, the  
115 remainder of the sixty monthly payments of the reduced allowance shall be paid  
116 to such beneficiary as the member shall have nominated in the member's election  
117 of the option or in a subsequent nomination. If there is no beneficiary so  
118 nominated who survives the member for the remainder of the sixty monthly  
119 payments, the reserve for the remainder of such sixty monthly payments shall be  
120 paid to the estate of the last person to receive a monthly allowance. If the total  
121 of the sixty payments paid to the retired individual and the beneficiary of the  
122 retired individual is less than the total of the member's accumulated  
123 contributions, the difference shall be paid to the beneficiary in a lump sum;

124

OR

125 Option 7. A plan of variable monthly benefit payments which provides, in  
126 conjunction with the member's retirement benefits under the federal Social  
127 Security laws, level or near-level retirement benefit payments to the member for  
128 life during retirement, and if authorized, to an appropriate beneficiary designated  
129 by the member. Such a plan shall be actuarially equivalent to the retirement  
130 allowance under option 1 and shall be available for election only if established by  
131 the board of trustees under duly adopted rules.

132 (2) The election of an option may be made only in the application for  
133 retirement and such application must be filed prior to the date on which the  
134 retirement of the member is to be effective. If either the member or the person  
135 nominated dies before the effective date of retirement, the option shall not be  
136 effective, provided that:

137 (a) If the member or a person retired on disability retirement dies after  
138 attaining age fifty-five and acquiring five or more years of creditable service or

139 after acquiring twenty-five or more years of creditable service and before  
140 retirement, except retirement with disability benefits, and the person named by  
141 the member as the member's beneficiary has an insurable interest in the life of  
142 the deceased member, the designated beneficiary may elect to receive either  
143 survivorship payments under option 2 or a payment of the member's accumulated  
144 contributions. If survivorship benefits under option 2 are elected and the member  
145 at the time of death would have been eligible to receive an actuarial equivalent  
146 of the member's retirement allowance, the designated beneficiary may further  
147 elect to defer the option 2 payments until the date the member would have been  
148 eligible to receive the retirement allowance provided in subsection 1 of this  
149 section.

150 (b) If the member or a person retired on disability retirement dies before  
151 attaining age fifty-five but after acquiring five but fewer than twenty-five years  
152 of creditable service, and the person named as the beneficiary has an insurable  
153 interest in the life of the deceased member or disability retiree, the designated  
154 beneficiary may elect to receive either a payment of the person's accumulated  
155 contributions or survivorship benefits under option 2 to begin on the date the  
156 member would first have been eligible to receive an actuarial equivalent of the  
157 person's retirement allowance, or to begin on the date the member would first  
158 have been eligible to receive the retirement allowance provided in subsection 1  
159 of this section.

160 5. If the total of the retirement or disability allowances paid to an  
161 individual before the person's death is less than the person's accumulated  
162 contributions at the time of the person's retirement, the difference shall be paid  
163 to the person's beneficiary or, if there is no beneficiary, to the (1) surviving  
164 spouse, (2) surviving children in equal shares, (3) surviving parents in equal  
165 shares, or (4) person's estate in that order of precedence; provided, however, that  
166 if an optional benefit, as provided in option 2, 3 or 4 in subsection 4, had been  
167 elected and the beneficiary dies after receiving the optional benefit, then, if the  
168 total retirement allowances paid to the retired individual and the individual's  
169 beneficiary are less than the total of the contributions, the difference shall be  
170 paid to the (1) surviving spouse, (2) surviving children in equal shares, (3)  
171 surviving parents in equal shares, or (4) estate of the beneficiary, in that order  
172 of precedence, unless the retired individual designates a different recipient with  
173 the board at or after retirement.

174 6. If a member dies before receiving a retirement allowance, the member's

175 accumulated contributions at the time of the member's death shall be paid to the  
176 member's beneficiary or, if there is no beneficiary, to the (1) surviving spouse, (2)  
177 surviving children in equal shares, (3) surviving parents in equal shares, or (4)  
178 to the member's estate; provided, however, that no such payment shall be made  
179 if the beneficiary elects option 2 in subsection 4 of this section, unless the  
180 beneficiary dies before having received benefits pursuant to that subsection equal  
181 to the accumulated contributions of the member, in which case the amount of  
182 accumulated contributions in excess of the total benefits paid pursuant to that  
183 subsection shall be paid to the (1) surviving spouse, (2) surviving children in  
184 equal shares, (3) surviving parents in equal shares, or (4) estate of the  
185 beneficiary, in that order of precedence.

186           7. If a member ceases to be an employee as defined in section 169.600 and  
187 certifies to the board of trustees that such cessation is permanent or if the  
188 person's membership is otherwise terminated, the person shall be paid the  
189 person's accumulated contributions with interest.

190           8. Notwithstanding any provisions of sections 169.600 to 169.715 to the  
191 contrary, if a member ceases to be an employee as defined in section 169.600 after  
192 acquiring five or more years of creditable service, the member may, at the option  
193 of the member, leave the member's contributions with the retirement system and  
194 claim a retirement allowance any time after the member reaches the minimum  
195 age for voluntary retirement. When the member's claim is presented to the  
196 board, the member shall be granted an allowance as provided in sections 169.600  
197 to 169.715 on the basis of the member's age and years of service.

198           9. The retirement allowance of a member retired because of disability  
199 shall be nine-tenths of the allowance to which the member's creditable service  
200 would entitle the member if the member's age were sixty.

201           10. Notwithstanding any provisions of sections 169.600 to 169.715 to the  
202 contrary, any member who is a member prior to October 13, 1969, may elect to  
203 have the member's retirement allowance computed in accordance with sections  
204 169.600 to 169.715 as they existed prior to October 13, 1969.

205           11. Any application for retirement shall include a sworn statement by the  
206 member certifying that the spouse of the member at the time the application was  
207 completed was aware of the application and the plan of retirement elected in the  
208 application.

209           12. Notwithstanding any other provision of law, any person retired prior  
210 to August 14, 1984, who is receiving a reduced retirement allowance under option

211 1 or 2 of subsection 4 of this section, as the option existed prior to August 14,  
212 1984, and whose beneficiary nominated to receive continued retirement allowance  
213 payments under the elected option dies or has died, shall upon application to the  
214 board of trustees have the person's retirement allowance increased to the amount  
215 the person would have been receiving had the person not elected the option  
216 actuarially adjusted to recognize any excessive benefits which would have been  
217 paid to the person up to the time of the application.

218 13. Benefits paid pursuant to the provisions of the public education  
219 employee retirement system of Missouri shall not exceed the limitations of  
220 Section 415 of Title 26 of the United States Code, except as provided under this  
221 subsection. Notwithstanding any other law, the board of trustees may establish  
222 a benefit plan under Section 415(m) of Title 26 of the United States Code. Such  
223 plan shall be credited solely for the purpose described in Section 415(m)(3)(A) of  
224 Title 26 of the United States Code. The board of trustees may promulgate  
225 regulations necessary to implement the provisions of this subsection and to create  
226 and administer such benefit plan.

227 14. Any member who has retired prior to July 1, 1999, and the designated  
228 beneficiary of a deceased retired member upon request shall be made, constituted,  
229 appointed and employed by the board as a special consultant on the matters of  
230 education, retirement and aging. As compensation for such duties the person  
231 shall receive a payment equivalent to seven and four-tenths percent of the  
232 previous month's benefit, which shall be added to the member's or beneficiary's  
233 monthly annuity and which shall not be subject to the provisions of subsections  
234 2 and 3 of this section for the purposes of the limit on the total amount of  
235 increases which may be received.

236 15. Any member who has retired prior to July 1, 2000, and the designated  
237 beneficiary of a deceased retired member upon request shall be made, constituted,  
238 appointed and employed by the board as a special consultant on the matters of  
239 education, retirement and aging. As compensation for such duties the person  
240 shall receive a payment equivalent to three and four-tenths percent of the  
241 previous month's benefit, which shall be added to the member's or beneficiary's  
242 monthly annuity and which shall not be subject to the provisions of subsections  
243 2 and 3 of this section for the purposes of the limit on the total amount of  
244 increases which may be received.

245 16. Any member who has retired prior to July 1, 2001, and the designated  
246 beneficiary of a deceased retired member upon request shall be made, constituted,

247 appointed and employed by the board as a special consultant on the matters of  
248 education, retirement and aging. As compensation for such duties the person  
249 shall receive a payment equivalent to seven and one-tenth percent of the previous  
250 month's benefit, which shall be added to the member's or beneficiary's monthly  
251 annuity and which shall not be subject to the provisions of subsections 2 and 3  
252 of this section for the purposes of the limit on the total amount of increases which  
253 may be received.

254 **17. Notwithstanding the provisions of subsection 7 of section**  
255 **169.620 to the contrary, any member who has retired, attained the age**  
256 **of seventy-five and above, and received cost-of-living increases totaling**  
257 **eighty percent as provided in subsection 2 of this section prior to**  
258 **January 1, 2009, shall be made, constituted, and employed by the board**  
259 **as a special consultant on the matters of education, retirement, and**  
260 **aging, and upon request shall give written or oral opinions to the board**  
261 **in response to such requests. As compensation for such duties,**  
262 **beginning January 1, 2009, and through January 1, 2014, the member**  
263 **shall receive an amount equal to three dollars per month multiplied by**  
264 **years of service which shall be added to the member's monthly annuity.**

✓

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